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February 12, 2020

VIA E-FILING

Honorable Esther Salas
Martin Luther King Building & U.S. Courthouse
50 Walnut Street Room 4015
Newark, NJ 07101

Re: Fuller, et al. v. INSYS Therapeutics, Inc., et al.
Docket No.: 2:17-cv-07877-ES-SCM

Dear Judge Salas:

As Your Honor is aware, this office represents defendant, Rochester Drug Cooperative, Inc. ("RDC") in the above captioned matter. In that regard, we are in receipt of the Court's letter, dated February 10, 2020 (doc. 239) in which Your Honor requests that RDC clarify whether it seeks to withdraw its motion to dismiss for lack of personal jurisdiction. RDC moved to dismiss Plaintiffs' Second Amended Complaint (the "SAC") against RDC pursuant to Fed. R. 12(b)(6) for failure to state a cause of action because 1) the SAC is time barred by the applicable statute of limitations; 2) Plaintiffs' claims against RDC do not relate back to the original complaint; 3) that Plaintiffs' claims for common law fraud and negligent misrepresentation are insufficiently pled. RDC also moved to dismiss the SAC pursuant to Fed. R. 12(b)(2) for lack of personal jurisdiction. RDC wishes to withdraw that portion of its motion seeking to dismiss pursuant to Fed. R. 12(b)(2) only. RDC seeks to maintain and pursue the remaining portions of its motion to dismiss brought pursuant Fed. R. 12(b)(6) for violating the statute of limitations and failure to properly state a cause of action.

Respectfully submitted,

Hawkins Parnell & Young, LLP

s/Roy F. Viola, Jr.

Roy F. Viola, Jr.
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Attorneys for Defendant
Rochester Drug Cooperative, Inc.

Rochester Drug Cooperative Inc.'s motion to dismiss (D.E. No. 207) is withdrawn in part, as to the Federal Rule of Civil Procedure 12(b)(2) personal jurisdiction portion *only*. Accordingly, the Plaintiff's request for further briefing on the issue of personal jurisdiction (D.E. No. 231) is denied.

SO ORDERED.



Hon. Esther Salas, U.S.D.J.

Date: February 13, 2020